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September 15, 2021

**VIA ECF**

Honorable Lorna G. Schofield  
United States District Judge  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007

**RE: *Contant, et al. v. Bank of America Corp., et al.*, No. 17-cv-3139**

Dear Judge Schofield:

Pursuant to Class Counsel's September 6, 2021 letter to the Court, (ECF 483), Plaintiffs respectfully submit this letter to provide an update on the determination of the only remaining unresolved claim, an Option Two<sup>1</sup> late claim, several iterations of which were submitted by AMA Capital LLC ("AMA"), and the status of the estimated time that it will take for Class Counsel to file a motion for approval to distribute the settlement proceeds to members of the Classes who submitted approved claims.

The Claims Administrator received 11,311 claims on behalf of 9,211 individuals or entities of which 11,146 claims were approved in full and 165 claims were denied in full or in part. Of the 11,311 claims submitted, the only dispute regarding the Claims Administrator's determinations is as to a portion of the denials of AMA's late claim which was approved in part and denied in part. As discussed below, AMA does not dispute some of the Claims Administrator's denials, but contests others. The denials that AMA continues to dispute are ripe for resolution by the Court.

On August 13, 2021, the Claims Administrator provided AMA with an extensive and detailed written claim notification assessment. In sum, the portion of AMA's late claim that was denied is primarily based upon: (i) AMA's failure to provide complete documentation, such as account

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<sup>1</sup> Pursuant to the Court approved Claim Form, Option Two claims are calculated based on documentation supplied by claimants consisting of: (i) "detailed transactional records (e.g., account statements and transaction confirmations)"; and (ii) a completed "Option Two Claim Form Spreadsheet" – a template in which claimants may input relevant transactional data that they seek to be considered for payment from the settlements, as supported by the accompanying detailed transactional records (such as account statements) that confirm the validity of the transactions on the spreadsheet input by the claimant. Option One claims are computed by the Claims Administrator based on transactional data obtained by Plaintiffs' counsel during the litigation from the settlement class members' counterparties.



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statements, as required, to support most of the transactions comprising its late claim as set forth on the Option Two Claim Form Spreadsheet that AMA completed and submitted; and (ii) the determination that, even as to many of the transactions for which some form of documentation was provided, those transactions do not meet the Settlement Class Definitions and, therefore, would be ineligible, even if the required supporting documentation had been supplied with the late claim.

On September 2, 2021, AMA, through its counsel, transmitted a lengthy response to the August 13, 2021 written claim assessment and provided additional documents and information. In its response, AMA did not contest certain of the Claims Administrator's denials.

On September 13, 2021, Class Counsel, the Claims Administrator and Class Counsel's subject matter experts engaged in a lengthy telephonic exchange with AMA's counsel and a representative of AMA in an attempt to resolve the remaining denied transactions that AMA contests. On September 15, 2021, Class Counsel and AMA's counsel had another telephonic discussion to attempt to resolve the remaining denied transactions.

Following those discussions, no reversal of the denials set forth in the August 13, 2021 claim assessment which AMA contested in its September 2, 2021 response to the claim assessment is recommended. AMA continues to contest those denials.

The resolution of the remaining dispute regarding the denied portion of AMA's late claim that it continues to contest is the only impediment to the prompt filing of Class Counsel's motion to distribute the settlement proceeds to the Classes. Once the disputed portions of AMA's late claim are resolved by the Court, the distribution motion can be filed in a matter of days.

The Settlement Agreements in this matter provide that "[i]f a dispute concerning a claim cannot be otherwise resolved in a timely fashion, Class Counsel shall thereafter present the request for review to the Court." Given the foregoing, the denials that AMA continues to dispute are ripe for resolution by the Court. Accordingly, unless otherwise ordered, Class Counsel intend to present the dispute regarding AMA's claim to the Court no later than September 23, 2021. Because the Settlement Agreements do not detail a procedure once Class Counsel present the request for review to the Court, in an effort to facilitate the prompt resolution of the dispute so that a final distribution can be made as promptly as possible, Class Counsel respectfully request that the Court order AMA to submit a response, if any, no later than September 30, 2021 and that Class Counsel may file a reply, if any, no later than October 7, 2021. Class Counsel also respectfully request that the Court limit each submission to not more than 3 pages, exclusive of exhibits. During the September 15, 2021 discussion among Class Counsel and AMA's Counsel, Class Counsel proposed the foregoing (with the possibility of letters up to 5 pages). Counsel for AMA



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did not consent to Class Counsel's proposal and indicated that it may desire additional time and pages but did not propose an alternative as of the filing of this status letter.

We welcome any questions the Court may have.

Respectfully submitted,

/s/ Michael Dell'Angelo

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